

## **REMARKS**

Reconsideration and allowance are respectfully requested in view of the following remarks.

Claims 1 has been amended to incorporate the limitations of claim 2. Claims 3-5 have been amended to be dependent upon claim 1. Claim 27 has been amended to incorporate the limitations of claim 30. Claims 31 and 32 have been amended to be dependent upon claim 27. Claim 34 has been amended to correct an informality. Claims 2 and 30 have been canceled. Support for these amendments may be found throughout the specification, specifically the originally filed claims 2 and 30. Claims 1, 3-29, and 31-35 are pending in the application.

The presently claimed invention is generally directed to a system, method and apparatus for establishing a secure wireless radio communications link between two devices that minimizes the exposure of sensitive information to third party interception. The secure link is established by first establishing an infrared link between the two devices for the exchange of sensitive information, such as encryption information. Subsequent communications would then have the benefit of encryption protection, establishing the secure wireless radio communications link.

In the Office Action, claims 1-12, 16-23, and 27-32 were provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-32 of copending Application No. 09/022,289. Upon the request of the Examiner, Applicant will file a terminal disclaimer.

In the Office Action, claims 1, 12, and 27-29 were rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 5,608,723 to Felsenstein.

With regard to claim 1, Felsenstein generally describes a method and a system for wireless communication within a predetermined boundary. A message signal is encoded using a preselected

code and transmitted using a radio frequency signal. A code signal representative of the preselected code is also transmitted, wherein the code signal is confined within the predetermined boundary using, for example, an infrared signal. At a receiver within the predetermined boundary, the code signal and the radio frequency signal are received. The encoded signal represented by the radio frequency signal is decoded based upon the preselected code. The Felsenstein reference fails to teach or suggest important exemplary features of the invention of claim 1 as amended by Applicant. For example, the invention of claim 1, as amended, includes the limitation of "wherein said first and second devices transceive a plurality of messages therebetween in said second communication mode (a radiofrequency mode), wherein, prior to transceiving a security message therebetween, said first and second devices switch transceiving to said first communication mode (an infrared mode), and transmit said security message in said first communication mode." As admitted by the Examiner in the Office Action in regard to the rejection of claims 2 and 3, Applicant respectfully submits that Felsenstein does not teach such a limitation. Therefore, for at least the foregoing reasons, Applicant respectfully submits that the invention of claim 1 would not be anticipated Felsenstein.

With regard to claims 3-15, Applicant notes that these claims are dependent from claim 1 as amended. Accordingly, Applicant respectfully submits that claims 3-15 also would not be anticipated by Felsenstein.

With regard to claim 27, Felsenstein fails to disclose important exemplary features of the claim as amended by Applicant. For example, the invention of claim 27, as amended, includes the limitation "wherein said transceiving device switches transceiving from said radiofrequency transceiving means to said infrared transceiving means prior to the transmission of an infrared security message within said communications system." Applicant respectfully submits that

Felsenstein fails to teach the claimed limitation of switching from a radiofrequency transceiving means to an infrared transceiving means prior to the transmission of an infrared security message within a communication system. Therefore, for at least the foregoing reasons, Applicant respectfully submits that the invention of claim 27 would not be anticipated Felsenstein.

With regard to claims 28, 29, and 31-35, Applicant notes that these claims are dependent from claim 27, as amended. Accordingly, Applicant respectfully submits that claims 28, 29, and 31-35 also would not be anticipated by Felsenstein.

In the Office Action, claims 13-15, 24-31, and 33 were rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,479,595 to Israelsson.

With regard to claims 13-15, Israelsson is generally directed to a mobile telephony system for communication between mobile stations and base stations. Such communication may be effected either by radio waves or with light. Certain mobile stations may be capable of being switched between signal transmission with radio waves and signal transmission with light, which enables these stations to be used in both systems. Applicant notes that claims 13-15 are dependent upon claim 1. Israelsson fails to teach or suggest important exemplary features of the invention of claim 1, as amended by Applicant. For example, the invention of claim 1 as amended includes the limitation of "wherein said first and second devices transceive a plurality of messages therebetween in said second communication mode (a radiofrequency mode), wherein, prior to transceiving a security message therebetween, said first and second devices switch transceiving to said first communication mode (an infrared mode), and transmit said security message in said first communication mode." Applicant respectfully submits that Israelsson does not teach or suggest such a limitation. In fact, there is no teaching or suggestion of transceiving a security message by

Israelsson. Therefore, for at least the foregoing reasons, Applicant respectfully submits that the invention of claims 1 and 3-15 would not be anticipated Israelsson.

With regard to claim 24-26, Applicant notes that these claims are dependent from claim 16. Israelsson fails to teach or suggest important exemplary features of the invention of claim 16. For example, claim 16 includes the limitation of “forwarding an infrared request message in said infrared mode” and “establishing said secure communication link between said first and second devices, said secure communication link operating in said infrared mode.” Applicant respectfully submits that Israelsson does not teach or suggest such a limitation. In fact, there is no teaching or suggestion by Israelsson of establishing a secure communication link operating in an infrared mode. Therefore, for at least the foregoing reasons, Applicant respectfully submits that the invention of claims 16-26 would not be anticipated Israelsson.

With regard to claims 27-31, Israelsson fails to disclose important exemplary features of the claim as amended by Applicant. For example, the invention of claim 27, as amended, includes the limitation “wherein said transceiving device switches transceiving from said radiofrequency transceiving means to said infrared transceiving means prior to the transmission of an infrared security message within said communications system.” Applicant respectfully submits that Israelsson fails to teach this limitation of the claimed invention. In fact, there is no teaching or suggestion by Israelsson of transceiving an infrared security message. Applicant notes that claims 28, 29, and 31-35 are dependent from claim 27. Therefore, for at least the foregoing reasons, Applicant respectfully submits that the invention of claims 27-29 and 31-35 would not be anticipated Israelsson.

In view of the above, Applicant respectfully requests that the section 102(b)(e) rejection of

claims 1, 12-15, 24-31, and 33-35 be withdrawn.

In the Office Action, claims 2-7 were rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,608,723 to Felsenstein in view of U.S. Patent No. 5,479,595 to Israelsson.

With regard to claims 2-7, these claims recite the aforementioned inventive features of their parent claim 1, which features have not been found to be taught or suggested by Felsenstein, as discussed above. As previously indicated, the Felsenstein reference fails to disclose important exemplary features of the invention of claim 1. For example, as previously discussed, the invention of claim 1, as amended, includes the limitation of “wherein said first and second devices transceive a plurality of messages therebetween in said second communication mode (a radiofrequency mode), wherein, prior to transceiving a security message therebetween, said first and second devices switch transceiving to said first communication mode (an infrared mode), and transmit said security message in said first communication mode.” As admitted by the Examiner in the Office Action in regard to the rejection of claims 2 and 3, Applicant again respectfully submits that Felsenstein does not teach such a limitation. Additionally, the secondary reference, Israelsson, also fails to teach or suggest the aforementioned limitation. Israelsson fails to teach or suggest switching transceiving from a wireless communication mode to an infrared mode prior to transceiving a security message in the infrared mode. In fact, as previously discussed, there is no teaching or suggestion of transceiving a security message by Israelsson. Therefore, for at least the foregoing reasons, Applicant respectfully submits that claims 2-7 are patentably distinguishable over any combination of Felsenstein and Israelsson.

With regard to claims 8-15, Applicant notes that these claims are dependent from claim 1 as amended. Accordingly, Applicant respectfully submits that claims 8-15 also are patentably

distinguishable over any combination of Felsenstein and Israelsson.

In the Office Action, claims 8-11 and 16-23 were rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,608,723 to Felsenstein in view of U.S. Patent No. 5,585,953 to Zavrel.

With regard to claims 8-11, these claims recite the aforementioned inventive features of their parent claim 1, which features have not been found to be taught or suggested by Felsenstein, as discussed above. As previously indicated, the Felsenstein reference fails to disclose important exemplary features of the invention of claim 1. For example, as previously discussed the invention of claim 1, as amended, includes the limitation of “wherein said first and second devices transceive a plurality of messages therebetween in said second communication mode (a radiofrequency mode), wherein, prior to transceiving a security message therebetween, said first and second devices switch transceiving to said first communication mode (an infrared mode), and transmit said security message in said first communication mode.” As admitted by the Examiner in the Office Action in regard to the rejection of claims 2 and 3, Applicant again respectfully submits that Felsenstein does not teach such a limitation. Zavrel is generally directed to an IF/RF radio transceiver in which an IR communication subsystem is coupled to an RF transceiver. The IR subsystem includes an IR transmitter and receiver which may be selectable coupled to the transceiver. The secondary reference, Zavrel, fails to overcome the deficiencies of Felsenstein. For example, Zavrel fails to teach or suggest the aforementioned limitation. Therefore, for at least the foregoing reasons, Applicant respectfully submits that claims 8-11 are patentably distinguishable over any combination of Felsenstein and Zavrel.

With regard to claim 16, the Felsenstein reference fails to disclose important exemplary

features of the invention. For example, claim 16 includes the step of “forwarding an infrared request message in said infrared mode.” Applicant respectfully submits that Felsenstein does not teach or suggest the transmission of an infrared request message in the infrared mode as claimed. The secondary reference, Zavrel, again fails to overcome the deficiencies of Felsenstein. For example, Zavrel also fails to teach or suggest the transmission of an infrared request message in the infrared mode. Therefore, for at least the foregoing reasons, Applicant respectfully submits that claim 16 is patentably distinguishable over any combination of Felsenstein and Zavrel.

With regard to claims 17-26, Applicant notes that these claims are dependent from claim 16. Accordingly, Applicant respectfully submits that claims 17-26 also are patentably distinguishable over any combination of Felsenstein and Zavrel.

In the Office Action, claim 32 was rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,479,595 to Israelsson in view of U.S. Patent No. 5,915,021 to Herlin et al. (hereinafter “Herlin”).

With regards to claim 32, Applicant notes that this claim is dependent from claim 27. As discussed above, claim 27, as amended by Applicant, includes the additional limitation “wherein said transceiving device switches transceiving from said radiofrequency transceiving means to said infrared transceiving means prior to the transmission of an infrared security message within said communications system.” Again, Applicant respectfully submits that Israelsson fails to teach this limitation of the claimed invention. In fact, there is no teaching or suggestion by Israelsson of transmitting an infrared security message. Herlin is generally directed to a method for sending a secure message in a telecommunication system utilizing public encryption keys. The secondary reference, Herlin, fails to overcome the deficiencies of the Israelsson reference. For example, Herlin

also fails to teach or suggest transmitting an infrared security message. In fact, Herlin does not appear to contain any teaching of infrared communication, whatsoever. Therefore, for at least the foregoing reasons, Applicant respectfully submits that claim 27 is patentably distinguishable over any combination of Israelsson and Herlin. Applicant notes that claims 28-35 are dependent from claim 27. Accordingly, Applicant respectfully submits that claims 28-35 also are patentably distinguishable over any combination of Israelsson and Herlin.

In view of the above, Applicant respectfully requests that the section 103(a) rejection with respect to claims 2-11, 16-23, and 32 be withdrawn.

The Examiner cited, but did not apply, the following references which appear to be no more relevant than the references applied:

U.S. Patent Nos. 5,034,997; 5,301,353; 5,812,293; 5,917,425; 5,850,444; 5,659,883; 5,404,572; 4,904,993.

A copy of claims 1, 3-29, and 31-35, currently pending before the U.S. Patent and Trademark Office, is included for the convenience of the Examiner.

Should the Examiner have any further questions or comments facilitating allowance, the Examiner is invited to contact Applicant representative indicated below to further prosecution of this application to allowance and issuance.

In view of the foregoing remarks, Applicant respectfully submits that all claims pending in the application are allowable over the art of record and a Notice of Allowance for claims 1, 3-29, and 31-35 is therefore respectfully requested.

Respectfully submitted,

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